

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Billed Party Preference for  
InterLATA 0+ Calls

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CC Docket No. 92-77

COMMENTS

of the

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

July 17, 1996

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NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these comments in response to the *Second Further Notice of Proposed Rulemaking* ("SFNPRM") released on June 6, 1996, inviting comments on the above-captioned proceeding. This proceeding has the purpose of implementing the provisions of the Telecommunications Act of 1996 ("Act")<sup>1</sup> which direct the Commission to reform rules relating to operator services from pay telephones. NTCA is a national association of approximately 500 local exchange carriers ("LECs"). These LECs provide telecommunications services to end users and interexchange carriers throughout rural America.

The *SFNPRM* discusses a variety of proposed alternatives to Billed Party Preference ("BPP"). As correctly noted in the *SFNPRM*,<sup>2</sup> the record in this proceeding indicates that the cost of a BPP mandate as well as the time required for full deployment would be substantial and far outweigh any benefits generated by its implementation. While the *SFNPRM* indicates that further consideration will be given to BPP pursuant to the development of number portability, the

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<sup>1</sup> Pub. L. No. 104-104.

<sup>2</sup> *SFNPRM* at para. 4.

Commission tentatively concludes to adopt a combination of proposed alternatives to BPP at the present time. Comment is sought on the proposal to establish benchmarks for operator service provider (OSP) rates which reflect what consumers expect to pay.<sup>3</sup> The Commission also solicits comment on its tentative conclusion to require interexchange carriers to orally disclose to consumers all applicable charges for a call prior to call completion in the instance that the OSP's rates exceed a given percentage above the benchmark rate.<sup>4</sup>

**I. THE COMMISSION SHOULD REQUIRE OSPs TO DISCLOSE RATES FOR 0+ CALLS ORIGINATING ON PUBLIC PAYPHONES UNDER IN SOME INSTANCES.**

The Commission is to be commended for its proposed alternative to BPP. NTCA has consistently urged the Commission not to mandate the deployment of BPP, and to refrain from imposing rigid mandates on small companies. Society should not bear the cost of implementing BPP in order to achieve changes in call routing for 0+ calls.<sup>5</sup> The Commission's resources would be better spent on addressing interexchange carrier OSPs and premises owners that charge excessive rates. As stated in earlier comments, NTCA's principal concern has been and remains focused on urging the Commission to ensure that no undue burdens are imposed on small and rural carriers in efforts to simplify access to the network.<sup>6</sup>

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<sup>3</sup> *SFNPRM* at para. 3.

<sup>4</sup> The Commission proposes a benchmark rate based on a composite of the 0+ rates charged by the three largest interstate interexchange carriers: AT&T, MCI and Sprint. *SFNPRM* at para. 23.

<sup>5</sup> See Comments of NTCA at 1, September 14, 1994.

<sup>6</sup> See Reply Comments of NTCA at 2, April 27, 1995. See also, Comments of USTA at 2, April 12, 1995.

The Commission has considered the mandatory implementation of BPP because of such potential benefits as more effective competition for customers who prefer not to use access codes, leading to lower prices and better services. BPP would also be expected to encourage a refocus of OSP competitive energies toward serving consumers rather than paying commissions for the 0+ traffic from public payphones.<sup>7</sup> Problems most often stem from a "lack of adequate information for callers to make an informed choice,"<sup>8</sup> as well as from unreasonably high rates.<sup>9</sup> NTCA believes that it is in the public interest to require OSPs to disclose their rates for 0+ calls that originate on public payphones in some instances. The price disclosure solution provides many of the aforementioned expected benefits of BPP to consumers without the enormous cost burden. There are many rural areas where the number of 0+ calls and the number of affected transient users will be small, producing a prohibitive per-unit cost of BPP. However, a required price disclosure only in instances where OSP rates and/or related premises-owner fees exceed some percentage of a given benchmark rate will provide these benefits at far less cost.

**II. IN THE EVENT THAT A BENCHMARK RATE IS ESTABLISHED FOR 0+ CALLS, THE COMMISSION MUST ENSURE THAT THE BURDEN OF MONITORING AND ENFORCEMENT IS NOT PLACED ON LEC MEMBERS.**

As stated in earlier comments, NTCA is not opposed to the use of benchmarks for 0+ interstate calls,<sup>10</sup> so long as the plan does not place the burden of monitoring and enforcement on

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<sup>7</sup> *Further Notice of Proposed Rulemaking*, June 6, 1994, CC Docket No. 92-77, at para. 9.

<sup>8</sup> *SFNPRM* at para. 13.

<sup>9</sup> See Comments of NTCA, April 12, 1995, at 2.

<sup>10</sup> NTCA opposed the COMPTTEL proposal to adopt a rate ceiling for operator assisted calls because the plan called for monitoring compliance. NTCA argued that the burden for compliance (continued...)

its LEC members. NTCA submits that the Commission's proposal to establish a benchmark rate by approximating the average price charged by AT&T, MCI and Sprint is reasonable.<sup>11</sup> However, the Commission is asked to clarify in its rules that the full responsibility for any monitoring burden resulting from compliance with the given benchmark for 0+ interstate calls rests solely with the competing OSPs.

In conjunction with the establishment of a benchmark for 0+ calls, the Commission also tentatively concludes that OSPs whose rates fall above the benchmark should be required to disclose the *actual price* they will charge for the call dialed.<sup>12</sup> NTCA notes that if oral rate disclosure is required by OSPs in the event that rates exceed the given benchmark, the oral disclosure may prompt some customer questions. NTCA asks that the Commission also clarify that it is the OSP who is creating and profiting from the higher rates who is also responsible for answering these questions and not the LEC.

**III. THE COMMISSION SHOULD NOT FORBEAR FROM ENFORCING SECTION 226, WHICH REQUIRES OSPs TO FILE INFORMATIONAL TARIFFS OF RATES FOR DOMESTIC INTERSTATE INTEREXCHANGE SERVICES.**

Section 401 of the 1996 Act requires the Commission to forbear from applying any regulation if (1) enforcement is not necessary to ensure that the charges and practices are just,

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(...continued)

with any benchmark approach for 0+ interstate calling should rest squarely on the OSPs who benefit from providing these competitive services. Furthermore, the proposed monitoring procedures would have imposed significant burdens on small LECs. *See Comments of NTCA, April 12, 1995, at 2.*

<sup>11</sup> NTCA also concurs with other commenting parties that any set benchmark should be adjusted annually and not be allowed to "float," as floating benchmarks are costly and administratively burdensome. *See SFNPRM at para. 22.*

<sup>12</sup> *SFNPRM at para. 34.*

reasonable and neither unjustly nor unreasonably discriminatory; (2) enforcement is not necessary for the protection of consumers; and (3) forbearance is consistent with the public interest. Comment is therefore sought on whether to enforce the Section 226 tariffing requirements with respect to non-dominant interexchange OSPs.

Similar to its position put forth in the CC Docket No. 96-61 proceeding regarding the implementation of Section 254(g), NTCA believes that the decision not to rely on tariffs is premature.<sup>13</sup> Reliance on the Commission's complaint process does not present a valid alternative to ensure that charges and other practices are just and reasonable. As stated by the Pennsylvania Office of Consumer Advocate in CC Docket No. 96-61 comments, "... the FCC should do more than simply request certification and instead should maintain sufficient price information to independently verify that fact . . ."<sup>14</sup>

The Commission should not rely on the complaint process alone to ensure effective enforcement of the rules established in this proceeding. However, regardless of the Commission's decision in this matter, NTCA believes that the decision to forbear or not to forbear in this proceeding should be consistent with the rules established in CC Docket No. 96-61.

#### IV. CONCLUSION

The record has shown that industry-wide mandated BPP deployment is not economically

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<sup>13</sup> See Reply Comments of the Rural Telephone Coalition, May 3, 1996, CC Docket No. 96-61, at 16.

<sup>14</sup> See Comments of the Pennsylvania Office of Consumer Advocate, April 19, 1996, CC Docket No. 96-61, at 6.

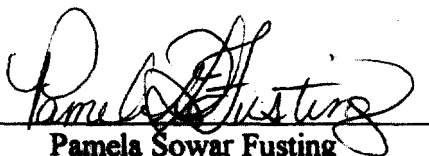
feasible and would adversely affect small and rural LECs. The Commission's proposal to implement a price disclosure and benchmark scheme provides a more cost effective way to protect captive consumers from exorbitant rates on 0+ calls originated on public payphones.


While NTCA submits that the Commission's proposal is a reasonable means by which to provide benefits of BPP that outweigh the cost on society, the Commission must ensure that no monitoring or enforcement burdens fall on the LECs and that sufficient rate information is available to verify compliance.

For reasons stated above, the Commission should recognize that reliance on the complaint process is insufficient to ensure effective enforcement of the proposed policy. Regardless, if the Commission finds that it should forbear from requiring non-dominant interexchange carriers to file tariffs, the Commission should consistently forbear from applying the requirements for informational tariffs by non-dominant OSPs.

Respectfully submitted,

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July 17, 1996

**CERTIFICATE OF SERVICE**

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 92-77 was served on this 17th day of July 1996, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached service list:

  
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